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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,127	08/22/2001	Daniel Wyatt	4216P2365	7736

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EXAMINER

ARK, DARREN W

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/934,127

Applicant(s)

WYATT, DANIEL

Examiner

Darren W. Ark

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-34 is/are pending in the application.
- 4a) Of the above claim(s) 23-31, 33 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-22 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

1. Claims 23-31, 33, 34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11 and in the Telephone Interview of 10/9/03.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 18-21, 32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Caplan 2,828,571.

Caplan discloses a sleeve (10, 11; 10 made of flexible net of plastic, such as nylon); a fishing line (14, 15) with a second end dimensioned to pass through an aperture (open front end of 11) defined by the second end of the sleeve; a fishing hook (19 not being recited such that it protrudes out of the first end).

3. Claims 18, 19, 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Franklin et al. 4,253,263.

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Franklin et al. discloses a sleeve (1 of flexible rubber polymer tube); a swivel harness (15); a leader (9); and a hook (11).

4. Claims 18, 19, 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pflueger 889,804.

Pflueger discloses a sleeve (1 of flexible fabric); a swivel harness (8-10); a leader (13); and a hook (14).

5. Claims 18, 20, 21, 32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hicks 3,893,255.

Hicks discloses a sleeve (16 of polypropylene); a fishing line (25) with a second end dimensioned to pass through an aperture (20; merely claims that the line is of a size capable of passing through the aperture) defined by the second end of the sleeve; a fishing hook (23, 24).

6. Claims 18-21, 32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hudson 4,961,280.

Hudson discloses a sleeve (26); a fishing line (12) with a second end dimensioned to pass through an aperture (30) defined by the second end of the sleeve; a fishing hook (34).

7. Claims 18-21, 32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pieper 3,991,504.

Pieper discloses a sleeve (28); a fishing line (12) with a second end dimensioned to pass through an aperture (defined by 44 or 46) defined by the second end of the sleeve; a fishing hook (16).

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8. Claims 18, 20, 21, 32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zander et al. 2,216,929.

Zander discloses a sleeve (6 or 21 made of woven metallic fabric which is flexible); a fishing line or leader (8 or 26 coupled to fishing line) with a second end dimensioned to pass through an aperture (at 9 or 24) defined by the second end of the sleeve; a fishing hook (12 or 27).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Caplan 2,828,571.

Caplan discloses the material being made of a plastic, but does not disclose the sleeve comprising polyethylene terephthalate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sleeve out of polyethylene terephthalate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

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11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin et al. 4,253,263.

Franklin et al. discloses the material being made of a flexible rubber polymer such as gum latex, but does not disclose the sleeve comprising polyethylene terephthalate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sleeve out of polyethylene terephthalate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

12. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hicks 3,893,255.

Hicks discloses the material being made of polypropylene, but does not disclose the sleeve comprising polyethylene terephthalate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sleeve out of polyethylene terephthalate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

13. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson 4,961,280.

Hudson does not disclose the sleeve comprising polyethylene terephthalate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sleeve out of polyethylene terephthalate, since it has been held

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to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

14. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pieper 3,991,504.

Pieper does not disclose the sleeve comprising polyethylene terephthalate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sleeve out of polyethylene terephthalate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

15. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zander 2,216,929.

Zander discloses the material being made of metal, but does not disclose the sleeve comprising polyethylene terephthalate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sleeve out of polyethylene terephthalate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

16. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zander et al. 2,216,929 in view of Franklin et al. 4,253,263 or Allman 2,741,058 or Dillon 2,016,960 or Pflueger 889,804.

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Zander et al. discloses a leader (8 or 26) with a hook (12 or 27 coupled to the leader, but does not disclose a swivel harness. Franklin (15), Allman (28), Dillon (4), and Pflueger (8-10) each disclose swivel harnesses. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the lure of Zander et al. such that it has a swivel harness coupled to the second end of the sleeve in view of Franklin et al., Allman, Dillon, or Pflueger in order to allow the lure to move independently and freely from the line and prevent the lure from twisting the line with its every movement or rotation about its axis.

Response to Arguments

17. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Flanagan, Jr. '117 discloses a body (13) made of polyethylene terephthalate or other materials including vinylidene chloride-vinyl chloride co-polymers and other plastics, natural and artificial rubbers, and metals such as aluminum and stainless steel, in thin sheet or foil form.

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Darren W. Ark
Primary Examiner
Art Unit 3643

DWA